

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6370

BILL NUMBER: SB 122

NOTE PREPARED: Mar 23, 2007

BILL AMENDED: Mar 22, 2007

SUBJECT: Battery by Body Waste.

FIRST AUTHOR: Sen. Drozda

FIRST SPONSOR: Rep. L Lawson

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill provides that it is battery by body waste, a Class D felony, for a person to place body fluid or waste on: (1) an adult or child protective services caseworker; (2) a firefighter; (3) an employee of a probation department; (4) a first responder; or (5) a person whose duties include the supervision of lawfully detained persons. This bill provides enhanced penalties if the body waste is infected with hepatitis C.

Effective Date: July 1, 2007.

Explanation of State Expenditures: (Revised) This bill changes two factors for sentencing persons convicted of a felony involving bodily waste:

- It adds infection and transmission of hepatitis C as a factor that could increase the criminal penalty if a person places bodily waste on another person.
- It adds caseworkers, firefighters, first responders, and persons whose duties include the supervision of lawfully detained persons in community corrections programs and in facilities under contract with the Department of Correction to the class of court and criminal justice employees. Persons who place bodily waste on these employees or infect these employees with tuberculosis, hepatitis B, or HIV commit a more severe felony.

The following table shows the changes that this bill proposes.

Proposed Changes in Battery By Body Waste Penalties			
Type of Battery by Body Waste	Person	Employees of Community Corrections, Contract Agencies of DOC, Div. of Aging , Dept. of Child Services, Probation Departments, Firefighters and First Responders	Employees of DOC, Law Enforcement Agencies, County Jails, and Courts
Body Waste	A Misdemeanor* (no change)**	A Misdemeanor* (D Felony)**	D Felony* (no change)**
Infected with Hepatitis B, HIV, Tuberculosis	D Felony* (no change)**	D Felony* (C Felony)**	C Felony* (no change)**
Infected with Hepatitis C	A Misdemeanor* (D Felony)**	A Misdemeanor* (C Felony)**	D Felony* (C Felony)**
Transmitting Hepatitis B, Tuberculosis	C Felony* (no change)**	C Felony* (B Felony)**	B Felony* (no change)**
Transmitting Hepatitis C	A Misdemeanor* (C Felony)**	A Misdemeanor* (B Felony)**	D Felony* (B Felony)**
Transmitting HIV	B Felony* (no change)**	B Felony* (A Felony)**	A Felony* (no change)**
* Current Penalty ** (Proposed Penalty)			

Background -- Between 2002 and 2006, on average, 39 offenders a year have been committed to a state correctional facility for all felonies involving battery by body waste. Offenders are generally sentenced for the Class D felony. Class A, B, and C felonies involving battery by body waste are relatively rare. No data exists to indicate whether more offenders would be convicted of the Class D felony or higher crimes if firefighters, first responders, or persons whose duties include supervision of lawfully detained persons in a county or state facility are added to the victims of the crime or if hepatitis C infections are involved.

Offenders Committed to DOC Facilities for Battery by Body Waste									
CY	A Felony		B Felony		C Felony		D Felony		Total
	Number	Avg. Sentence	Number	Avg. Sentence	Number	Avg. Sentence	Number	Avg. Sentence	Number
2002			1	10.0	1	3.0	46	2.1	48
2003	1	20.0	1	6.0	2	2.0	41	1.6	45
2004					2	3.0	29	1.7	31
2005					2	1.5	33	2.3	35
2006							37	1.3	37
Total	1	20.0	2	8.0	7	2.3	186	1.8	196

The average expenditure to house an adult offender was \$22,734 in FY 2006. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$63,139.

The following table shows the minimum, advisory and maximum sentences for felonies A through D.

Felony Class	Minimum	Advisory	Maximum
A	20 years	30 years	50 years
B	6 years	10 years	20 years
C	2 years	4 years	8 years
D	six months	1.5 years	3 years

Explanation of State Revenues: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Department of Correction, Division of Aging , Department Of Child Services

Local Agencies Affected: Trial courts, local law enforcement agencies, community corrections agencies, fire departments

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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